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*Counsel for the Chapter 11 Trustee*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

FIRESTAR DIAMOND, INC., *et al.*

Debtors.

Chapter 11

No. 18-10509 (SHL)

(Jointly Administered)

RICHARD LEVIN, Chapter 11 Trustee of  
FIRESTAR DIAMOND, INC., FANTASY, INC.,  
and OLD AJ, INC. f/k/a A. JAFFE, INC.,

Plaintiff,

v.

NIRAV DEEPAK MODI, MIHIR BHANSALI,  
and AJAY GANDHI,

Defendants.

Adv. Proc. No. 19-1102 (SHL)

**NOTICE OF CHAPTER 11 TRUSTEE'S  
MOTION FOR AN ORDER SETTING NIRAV DEEPAK  
MODI'S TIME TO RESPOND TO THE COMPLAINT**

On March 28, 2019, Chapter 11 Trustee Richard Levin (the “**Trustee**”) filed the annexed motion (the “**Motion**”) for entry of an order (“**Order**”) setting Defendant Nirav Deepak Modi’s time to respond to the Complaint until 30 days after service of the Complaint and Summons.

A hearing on the Motion will be held before the Honorable Sean H. Lane of the United States Bankruptcy Court for the Southern District of New York on **April 15, 2019 at 11:00 a.m. (Eastern Time)**, or as soon thereafter as counsel may be heard (the “**Hearing**”), in Courtroom 701 of the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), One Bowling Green, New York, New York 10004.

Objections, if any, to approval of the Motion and entry of the proposed order must be served upon counsel to the Trustee, Jenner & Block LLP, 919 Third Avenue, New York, New York 10022 (Attn: Carl Wedoff, Esq.) so as to be received no later than **April 8, 2019** (the “**Objection Deadline**”).

If no responses or objections are served by the Objection Deadline, the relief may be granted as requested in the Motion without further notice or a hearing. You need not appear at the Hearing if you do not object to the relief requested in the Motion. The Hearing may be continued or adjourned from time to time without further notice other than an announcement of the adjourned date or dates at the Hearing or at a later hearing.

*(Signature page follows.)*

Dated: March 28, 2019  
New York, New York

Respectfully submitted,

**JENNER & BLOCK LLP**

By: /s/ Vincent E. Lazar  
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In re:

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No. 18-10509 (SHL)

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RICHARD LEVIN, Chapter 11 Trustee of  
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Plaintiff,

v.

NIRAV DEEPAK MODI, MIHIR BHANSALI,  
and AJAY GANDHI,

Defendants.

Adv. Proc. No. 19-1102 (SHL)

**CHAPTER 11 TRUSTEE'S MOTION FOR AN ORDER SETTING  
NIRAV DEEPAK MODI'S TIME TO RESPOND TO THE COMPLAINT**

Richard Levin, not individually but solely as chapter 11 trustee (the "**Trustee**") for Firestar Diamond, Inc. ("**Firestar**") submits this motion ("**Motion**") under 11 U.S.C. § 105(a) and Rule 7012 of the Federal Rules of Bankruptcy Procedure ("**Bankruptcy Rules**") for entry of an order

(“**Order**”) setting the Defendants’ deadline to respond to the complaint (“**Complaint**”) [Adv. Dkt. 1] under Rule 7012(a) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) to 30 days after service of the Complaint and summons (“**Summons**”) [Adv. Dkt. 4]. In support of the Motion, the Trustee respectfully states:

#### **JURISDICTION & VENUE**

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334(b).
2. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) in which the Court may constitutionally enter a final order, and the Trustee consents to the entry of a final order by the Court.

#### **BACKGROUND**

4. On February 26, 2018, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code commencing these chapter 11 cases. On June 14, 2018, the Court entered an order approving the appointment of the Trustee. [Dkt. 227.]
5. Before the date of the filing of the chapter 11 petitions, each of the Debtors conducted business as wholesalers of fine jewelry. The Trustee is now managing the Debtors’ estates to maximize recoveries for the Debtors’ creditors.
6. This is an action seeks to recover damages the Debtors and their estates suffered as a result of their six-year, extensive international fraud, money laundering, and embezzlement scheme orchestrated by Defendant Nirav Deepak Modi (“**Modi**”), the former indirect controlling majority shareholder and *de facto* director, officer, or controlling person of the Debtors; Mihir Bhansali (“**Bhansali**”), who served as the Debtors’ sole director and as the Chief Executive Officer

("CEO") of each Debtor; and Ajay Gandhi ("**Gandhi**"), who served as the Chief Financial Officer ("**CFO**") of each Debtor.

7. Upon information and belief, Defendant Modi is currently remanded in custody in the United Kingdom.

8. On March 27, 2019, the Trustee filed the Complaint.

9. On March 28, 2019, the Clerk of the Bankruptcy Court issued the Summons under Bankruptcy Rule 7004(e). The Summons states that the Defendants "are required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons." The Summons also indicates that a pretrial conference will be held on May 16, 2019 at 10:00 AM.

10. The Trustee is causing copies of the Complaint, Summons, and this Motion to be served on Defendant Modi in the United Kingdom in accordance with Article X of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, Nov. 15, 1965 ("**Hague Service Convention**"), [1969] 20 U.S.R. 361, T.I.A.S. No. 6638. Service in accordance with the Hague Service Convention is permitted under Rule 4(f)(1) of the Federal Rules of Civil Procedure, which is made applicable in this adversary proceeding by Bankruptcy Rule 7004(a)(1).

11. The Trustee is serving Defendants Bhansali and Gandhi via first-class mail.

#### **RELIEF REQUESTED**

12. The Trustee seeks entry of an Order setting the Defendants' time to respond to the Complaint to 30 days after service of the Complaint and Summons under Bankruptcy Rule 7012(a), which provides that "the Court shall prescribe the time for service of the answer when service of a complaint is made . . . upon a party in a foreign country." Fed. R. Bankr. P. 7012(a). That Rule and Rule 4(f)(1) apply because Defendant Modi is an individual who is to be served at

a place not within any judicial district of the United States. The Trustee believes that 30 days, as provided for domestic defendants, is an adequate time for Defendant Modi to respond to the complaint, but proposes that the 30-day period run from the service of the Complaint rather than from issuance of the Summons, so as to prevent any prejudice that might result from a delay in service overseas.

#### **NOTICE**

13. The Trustee is serving this Motion on Defendant Modi together with the Complaint and Summons in accordance with the Hague Service Convention. The Trustee submits that no other or further notice need be given.

WHEREFORE, the Trustee respectfully requests that this Court issue an order substantially in the form of the proposed order attached as Exhibit A setting Defendant Nirav Deepak Modi's time to respond to Complaint under Bankruptcy Rule 7012(a) to thirty days after service of the Complaint and Summons.

Dated: March 28, 2019  
New York, New York

Respectfully submitted,

**JENNER & BLOCK LLP**

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